HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION NO: 24431 of 2002

Dated: 01-08-2007

Between:

A.Padma Rao

..... PETITIONER

AND

The Assistant Divisional Engineer (OPN)
CPDCL, A.P. Limited,
Rajendra Nagar,
Ranga Reddy District and another.

.....RESPONDENTS

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No. 24431 of 2002

O R D E R:

This writ petition is filed for a writ of Mandamus to declare the letter dated nil issued by the second respondent wherein the petitioner was called upon to pay the assessment amount of Rs.22,304/- and compounding amount of Rs.1,000/- totaling to Rs.23,304/- as illegal.

Heard Sri Bathini Paparao Gowd, learned counsel for the petitioner and Sri A.B.S.Reddy, advocate, representing Sri V.Ajaykumar, learned standing counsel for the respondents.

Learned counsel for the petitioner submitted that the demand of Rs.23,304/- without serving the provisional notice is illegal.

Sri A.B.S.Reddy learned counsel for the respondent submitted that though a provisional assessment notice was sought to be served on the petitioner, he evaded receipt of the same and therefore, the impugned notice was sent to the petitioner.

A perusal of the averments in the counter affidavit, which are not denied by the petitioner, show that following the inspection of petitioner's premises on 02-04-2002, a provisional assessment notice was prepared on 16-04-2002 whereunder the value of energy pilfered by the petitioner was provisionally estimated at Rs.22,253/- and it was further mentioned therein that if the petitioner was desirous of getting the power restored, he has to pay half of the provisionally estimated amount of Rs.11,226.50 ps.

apart from supervision charges and reconnection charges. It is also mentioned in the counter affidavit that since the petitioner was evading to receive the provisional assessment notice, the power supply was disconnected on 20-11-2002.

Since the respondents are competent under the extant terms and conditions stipulated by them in exercise of the statutory powers conferred on them by the Electricity (Supply) Act, 1948, which is replaced by the Indian Electricity Act, 2003, the exercise of power by them for disconnecting the power supply on account of the inspection made and the alleged pilferage committed by the petitioner cannot be termed as illegal or arbitrary. However, a perusal of the record of the case reveals that on 09-10-2002, this Court, while admitting the writ petition, granted interim direction to restore the power supply.

Learned counsel for the petitioner claims and the learned counsel for the respondent does not dispute that in pursuance of the said interim order, the power supply was restored. Neither of the learned counsel, however, is able to say whether the assessment proceedings have been completed or not. Since the power supply was restored and it is not known whether the assessment proceedings are completed or not, the writ petition is disposed of with the following terms.

1. If the assessment proceedings are not already completed, the respondents are directed to complete the same within a period of eight weeks from today after giving an opportunity of hearing to the petitioner;

2. if the assessment proceedings are already completed, this order does not come in the way of the respondents to take such action as they are entitled under the relevant terms and conditions of power supply for recovery of the

dues, if any, from the petitioner subject to his right to question the assessment order and

3. in the event the assessment proceedings were not completed, the power supply shall not be disconnected till completion of the assessment proceedings.

Subject to the above directions, the writ petition is disposed of. No costs.

C.V.NAGARJUNA REDDY,J

Date: 01-08-2007
KLP